**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE G. BIKSHAPATHY**

**and**
**THE HON'BLE MR JUSTICE P.S.NARAYANA**

**WRIT PETITION NO : 20662 of 2004**

Between:

The Commissioner, Karimnagar

Municipality, Karimnagar

**..... PETITIONER**

AND

1 Algandula Komaraiah, S/o Durgaiah,
R/o 4-5-348, Near Weekly Market, Karimnagar District
2 Elagandala Laxmaiah, R/o Mehtajkhana Locality, Karimnagar District

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction and more particularly one in the nature of Writ of Certiorari by calling for the records leading to the orders dated 8-3-2004 in O.A.No.1311 of 1998 on the file of the A.P.Administrative Tribunal, Hyderabad and quash the orders in the interest of justice

**Counsel for the Petitioner:MR.POLISETTI RADHAKRISHNA (SC FOR MPL)**

**Counsel for the Respondents: Mr. KI.Vasudeva Reddy**

**The Court made the following :**

**O R D E R:**(per GB, J)

The Writ Petition is filed by the Commissioner, Karimnagar Municipality, against the orders dated 8.3.2004, passed by the A.P. Administrative Tribunal in O.A.No.1311 of 1998.

2) The 1st respondent herein filed O.A.No.1311 of 1998 seeking declaration that the action of the Municipality in permitting the 2nd respondent, Elgandala Laxmaiah to continue in service and also in not permitting the applicant to resume his duties as illegal and arbitrary.

3) It is the case of the first respondent Alagandula Komaraiah herein before the Tribunal that he was appointed as N.M.R., in the petitioner-Municipality on 1.4.1982 and his services were regularized by an order dated 3.4.1995 as Public Health Worker in the pay scale of Rs.1375-25-1425. Owing to ill health, he could not attend to his duties for some time and thereafter, he reported to duty, but another person by name Elagondala Laxmaiah, was found to be working in his place by impersonating the applicant. Since he was not permitted to join duty, he made representation and approached the Tribunal.

4) Before the Tribunal, both the respondents were set ex *parte* and the Tribunal, however, passed an order which reads as follows:

> "As could be seen from the averments made by both the parties and the material placed on record, it appears that the services of the applicant as Public Health worker have already been regularized vide proceedings dated 3.4.1995. It might be for some illness, he could not attend to duties for some period, at which time, the Commissioner, Karimnagar Municipality, Karimnagar District should have taken steps either to terminate the services of the applicant or grant leave on loss of pay, if no leaves are in his credit. But, without doing anything, it appears, the 1st respondent has appointed the 2nd respondent in place of the applicant and salary is also being paid to him by drawing in the name of the applicant. So, a direction is given to the Commissioner, Karimnagar District that he forthwith should admit the applicant to duties and for the period he did not work, if any amount is drawn in his name, that should be rectified and payment of salary should be made to the applicant, for the period he discharged his duties, if any due, and appropriate orders should be passed in this regard within a period of three weeks from the date of receipt of a copy of this order. Accordingly, the O.A., is disposed of."

5) The learned counsel for the Municipality submits that the 1st respondent before the Tribunal has made a false and fraudulent claim and there was no sufficient opportunity to the Municipality to place the necessary material before the Tribunal. In fact, the 1st respondent was never appointed by the Municipality at any point of time either as N.M.R or on regular basis. Only one Mr. Alagandula Komariah was appointed as N.M.R worker and subsequently his services were regularized. He has been continuing in the said capacity and there is no question of taking 1st respondent into service and therefore, the order of the Tribunal is liable to be set aside. It is further states that when a complaint of impersonation was received from 1st respondent an enquiry was conducted and it was found that complaint was false.

6) Since, we are felt that some serious irregularities have taken place, we directed the Commissioner of the Municipality to produce all relevant records

with regard to payment of salary as N.M.R. and also as regular worker. Accordingly, they produced the records before the Court. The question that falls for consideration is whether the 1st respondent really worked in the Municipality from 1982 and his services were regularized in service. He did not produce any document, except stating that he worked from 1982 and that in his place, some other person was allowed to be continuing by impersonation.

7) We have perused the representation dated 6.12.1999 filed by the 1st respondent wherein he stated that he was appointed as N.M.R. in 1982. Thereafter his services were regularized in 1995. He worked in such capacity till 1997 and thereafter, he was not allowed to join. We verified the record and this Court has also taken the sample signature of the 1st respondent as well as other person who is physically working in the Municipality as on date whose name also appears to be Komaraiah. Therefore, we called for the a aquittance rolls from 1995. The Municipality, produced the records. We have also taken sample signature of the 1st respondent and also the employee working in the Municipality at present, whose name also appears to be Komaraiah and the signature of the 1st respondent never tallied with any documents maintained by the Municipality. On the other hand, the signature of Komaraiah, who is working presently in the Municipal Corporation, tallied in all respects right from 1995 onwards. Thus, we find that the 1st respondent has approached the Court with an intention to mislead the Court and tried to obtain undue advantage of the situation by playing fraud and mischief. The Trbunal ought to have considered the matter, but in the absence of necessary material, it could not decided the same. Be that as it may, this Court prima facie finds that the 1st respondent has played fraud on the Court by making false allegations and if his representation dated 6.12.1999 is taken into consideration with reference to the aquittance rolls, it is a clear case of misrepresentation and fraud. Therefore, we find that investigation has to be conducted against the 1st respondent for playing fraud on the Courts. Since it is born out from records that the 1st respondent has not established or not produced even a scrap of paper to prove that he worked from 1982, we find that the order of the Tribunal is unsustainable and is accordingly set aside.

8) The Writ Petition is allowed. The Commissioner of Municipality, Karimnagar shall file a complaint before the police forthwith furnishing all the relevant material as available in the file to enable the police to investigate into the alleged fraud played by the 1st respondent and to proceed further according to law. No order as to costs.

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(G. BIKSHAPATHY, J)

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(P.S. NARAYANA, J)

12th April 2005.

BCS+BCJ

Note:

Issue C.C. in one week.

B/o

BCS

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the acting Chief Justice on this Tuesday the Twelfth day of April, Two thousand and five.

ASSISTANT REGISTRAR.

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SECTION OFFICER

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